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# INDIAN PUEBLO

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Testimony before the  
Senate Committee on Indian Affairs

Oversight Hearing on the President's Fiscal Year 2012 Budget  
for Tribal Programs

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**Chairman Akaka, Vice Chairman Barrasso and members of the Committee, my name is Walter Dasheno.** I am the Governor of the Pueblo of Santa Clara. Thank you for this opportunity to present to you on the President's FY 2012 Budget. The Santa Clara Pueblo is a federally recognized Indian tribe, located about 25 miles north of Santa Fe, New Mexico. We are one of only two tribes in New Mexico that have entered into self-governance compacts with the Bureau of Indian Affairs. I will focus the majority of my testimony on the funding of the Self-Governance tribes, but will also use other budget concerns of Santa Clara to highlight other funding needs in Indian country.

**Self Governance Program.** Santa Clara's experience as a self-governance tribe mirrors that of many other self-governance tribes – overall, the program has been a great success. Self-governance works because it promotes self-sufficiency and accountability; strengthens Tribal planning and management capacities; invests in our local resources to strengthen reservation economies; allows for flexibility; and affirms sovereignty. Approximately 50-60% of all Federally recognized Tribes are Self-Governance Tribes, and the interest shown by other Tribes is continuing to grow.

**The President's FY 2012 budget nicely summarizes the Self Governance program:** "Self-Governance Compacts implement the Tribal Self-Governance Act of 1994 (P.L. 103-413), by providing resources to new and existing self-governance Tribes, enabling them to plan, conduct, consolidate, and administer programs, services, functions, and



activities for tribal citizens according to priorities established by their tribal governments. Under tribal self- governance, Tribes have greater control and flexibility in the use of these funds, reduced reporting requirements, and the authority to redesign or consolidate programs, services, functions, and activities. In addition, self-governance Tribes can reallocate funds during the year and carry over unexpended funds into the next fiscal year without Secretarial approval. As a result, these funds can be used with more flexibility to address each Tribe's unique condition. They are also subject to annual audits pursuant to the Single Audit Act Amendments (P.L. 104-156) and OMB Circular A-133. In addition, most self- governance Tribes have included language in their funding agreements indicating that they will work with Indian Affairs to provide applicable data and information pursuant to the Government Performance and Results Act of 1993.

"Tribal participation in self-governance has progressed from seven Tribes and total obligations of \$27.1 million in 1991 to an expected 105 agreements including 255 Federally recognized Tribes and obligations in excess of \$425 million. These funds are negotiated on the same basis as funds provided to Tribes contracting under Title I of P.L. 93-638, as amended. Self-governance Tribes are subject to the same incremental adjustments of base funding as non-compacting Tribes. Also included in compacts are funds from other Federal programs allocated or awarded to self- governance Tribes such as funds from the Department of Transportation (Federal Highway Administration), Bureau of Land Management, and additional training funds under the Integration of Employment, Training, and Related Services Demonstration Act (P.L. 102-477) from the Department of Labor and the Department of Health and Human Services and other BIA Program Funding."

**Proposed Self-Governance Funding in the President's FY 2012 BIA and IHS Budgets.** The President has proposed increases in FY 2012 for the funding that supports the Self-Governance program. In the IHS budget, the President has proposed an increase of \$263,000 to \$6,329,000 from the FY 2010/2011 CR levels. This is an increase of 4.3%. For the Self-Governance line in the BIA budget, the President has proposed an increase of \$7.322 million for a total of \$155.084 million from the FY 2010/2011 CR level. This is an increase of approximately 5%. Santa Clara is happy to see this continued investment in the Self-Governance program, which returns far more in value to Indian country and America than is spent on it.

**Notwithstanding the increases in the Self Governance program line item, overall funding for Self Governance Tribes does not keep pace with non-Self-Governance Tribes.** While the self-governance regulations require that Self-Governance Tribes share equally in Congressional appropriation increases, in his testimony before this Committee on November 18, 2010 regarding the proposed Self-Governance amendments (H.R. 4347, 111<sup>th</sup> Congress), Ron Allen, Chairman of the Board of the Self-Governance Communication and Education Tribal Consortium (SGCETC) noted that it has been the experience of the Self-Governance Tribes that when Indian Affairs has received funding increases, oftentimes Self-Governance Tribes did not consistently receive their relative fair share.



Chairman Allen presented an analysis of Self-Governance funding. This analysis noted that “over the past 5-8 years, Self-Governance Tribes have voiced concern over the failure to receive their fair share of subsequent BIA funding increases. As identified during the TBAC presentation at the SG Conference held in May 2010:

- Allocation of Self-Governance Increases has **NOT** been transparent.
- Clearly, BIA has been making allocation decisions without Tribal (TBAC) Input.
- Increases have **NOT** been shared equally with Self-Governance Tribes (e.g. Law Enforcement).
- Tribes do **NOT** know the allocation results (or methodology) for most other BIA Programmatic increases: Education, Natural Resources, Economic Development. (CSC is known).
- Allocation of Carryover funds is **NOT** transparent and *MAY* be inequitable as well.
- Rescissions, on the other hand, have always been shared across the board.

Many Tribes have compact language stating that the Tribe “shall be eligible for increases and new programs on the same basis as other tribes”. If Self-Governance Tribes have not been eligible on the same basis as 638 tribes, this is in non-compliance with these Agreements. Further, it is difficult--if not impossible--for a Tribe to determine if it has been treated equitably when the Department has not been transparent on what “basis” funds have been allocated.

The analysis presented by Chairman Allen made several recommendations for discussion, including:

**“ REDEFINE REGIONAL/TRIBAL RELATIONSHIP TO MAINTAIN PROGRAM INTEGRITY, SHARE IN PROGRAM INCREASES, AND TO SHARE IN YEAR END CARRYOVER FUNDS.** It is important that a relationship between Self-Governance Tribes and the Regional Offices/Agencies be maintained relative to program funds. Self-Governance Tribes are running programs on behalf of the federal government. Too often, the longstanding culture at the BIA has left Self-Governance Tribes out of program increases as well as carryover because BIA staff have stated that “the Tribe has received full funding and the BIA is „finished" with it.” When program fund increases and carryover are not shared equally with the Self-Governance Tribes, SG Tribal citizens do not receive the benefit of funding provided by Congress on their behalf.

**“ EASE FUND TRANSFER THROUGH OSG—REDESIGN PROCESSES, ESTABLISH “FAST TRACK” TRANSFER PROCESS, INCREASED STAFFING.** Carryover funds must move quickly or they will be lost. Therefore, fund transfers through the Office of Self-Governance must be timely. At the regional level, funding is added to an open 638 contract. A similar method should be available through Self-Governance. Most likely, a combination of process



redesign or “a fast track system” will need to be developed along with increased staffing. Self-Governance Tribes have been requesting additional staffing for OSG to effectively move IRR and fire funds.

“**STRONGER SELF-GOVERNANCE ADVOCACY IN TBAC.** The BIA looks to the Tribal Budget Advisory Committee (TBAC) for direction and priorities on budgets. Without Self-Governance representation on the Committee, it is easy to overlook the specific issues faced by Self-Governance Tribes. The TBAC generally assumes that funding increases and carryover is distributed equally between direct, contracting, and Self-Governance compacting Tribes. However, history has demonstrated that technical barriers such as difficulty in transfer of funds have resulted in unequal distribution of funds.

“**PROGRAMMATIC FORMULAS FOR NEW FUNDS.** Consultation with Tribes is paramount in the development of programmatic funding formulas. Consistent, objective, and readily available variables should be used in a straightforward formula that is relatively simple to implement. Data collection is the key. Presently, even where there are formulas, the data used to calculate the distributions is inconsistent and unreliable, and often there is no formula, in which case distributions are made on a discretionary basis that is not predictable and often based on the limited personal knowledge of the Federal official. Examples of complex formulas/data collection can be seen in the allocation of IRR funds and the implementation of the CSC policy. While these two examples have been fraught with complications, (IRR and CSC funding formulas), at least Self-Governance Tribes share in funds on an equal footing.

**“Self-Governance Tribes recommend that BIA:**

“· Make information regarding its decision making process for each category of funding available to all Tribes, including all formulas upon which it relies, the methods for obtaining all data relied upon in the formulas, and the factors relied upon for any decision making that is not formula based;

“· Consult annually with Tribes regarding the formulas and other decision-making processes relied upon by BIA;

“· provide opportunities for Tribes to evaluate and comment on the accuracy of all data relied upon in any formula that BIA uses; and

“· Routinely update all information relied upon for making funding decisions and provide reasonable opportunities for Tribes to verify the data.”

**Reintroduction and Passage of Self-Governance Legislation.** Santa Clara supports amendments proposed in the last Congress to the Indian Self-Determination and Education Assistance Act that would improve upon current self-governance law. That legislation (H.R. 4347) contained several proposed amendments to Title IV of the Indian Self-Determination and Education Assistance Act (ISDEAA) that advance important purposes. Most significantly, they create consistency between Title IV Self-Governance in DOI and Title V



Self-Governance in the Department of Health and Human Services (DHHS). Tribal, Congressional and Federal representatives have met dozens of times to discuss the provisions and have spent hundreds of hours negotiating the details of H.R. 4347's provisions. The Title IV Tribal Team has been especially active in meeting with DOI and Bureau of Indian Affairs (BIA) officials over the last few months. Significant agreement has been reached on the vast majority of the provisions in this bill. Tribes have made significant concessions in order to ensure that this important legislation is enacted in this session of Congress. H.R. 4347 passed the House of Representatives on September 22, 2010 and was the subject of a hearing before the Senate Committee on Indian Affairs on November 18, 2010, but the Congress adjourned before it could be moved through the Senate.

**Santa Clara Budget Matters Illustrative of National Concerns.** The following budget issues are specific to Santa Clara Pueblo, but are representative of budget issues that are faced by many other tribes.

- **Investing in Indian Country Energy Development - Energy and Transmission Development at Santa Clara.** Santa Clara has been approached by a number of companies with regard to proposed transmission and energy development projects. Santa Clara is now submitting grant applications to fund various feasibility studies for these projects, which include possible expansion of an existing transmission corridor, as well as such energy generation projects as geothermal, waste to energy, solar and biomass. Santa Clara has recently met with both the Department of Energy Office of Tribal Affairs and the BIA Office of Indian Energy and Economic Development. Santa Clara found both offices to be very helpful and encourages increased funding for these programs. As is well-known, Indian country has vast energy reserves that could serve America well, but we need the capital and infrastructure development to harness these resources.
- **Investing in Health Facilities - Planning for a new Santa Clara Health Clinic.** Santa Clara desperately needs a new and expanded health clinic. The health care crisis that afflicts many Native populations throughout the United States is particularly severe in New Mexico. Of 20 indicators of health disparities among racial and ethnic groups in the state, American Indians in New Mexico have the highest (worst) disparities in many areas, including rates of death two or more times higher than other groups related to alcohol, diabetes, late or no prenatal care, motor vehicles, youth obesity, and youth suicide. American Indians in New Mexico also have higher rates than other groups for pneumonia and influenza. Ironically, overall funding for the Albuquerque Area is 1/3 less than the national IHS average. Essentially, the Albuquerque Area is at the bottom of funding both as a percentage and in terms of dollars, even as it tops many of the categories for health disparities. Severe overcrowding is further compromising care at the Santa Clara Health Center. In recent years, annual patient visits to the Health Center have surged from 14,878 to 27,884, or 87%. Such a dramatic increase in patient visits has pushed the Health Center well beyond its capacity to serve effectively its clients. With health care reform adding even more patients into the national health care system, overcrowding at Santa Clara's existing facility will not improve. A partial list of the effect of this overcrowding includes: treatment rooms used as triage rooms; the nurses' station also stores the autoclave, refrigerator and supplies, and serves as the clean room for preparing injections; the pharmacy area is designed for



a single pharmacist but houses two pharmacists and a pharmacy technician; the one blood-draw station is easily visible to waiting patients and does not readily accommodate larger patients or those with wheelchairs; the Optometry/Behavioral Health Office is located in a renovated storage closet; the dental clinic program was originally designed to provide 50,000 to 60,000 service minutes, but now labors to produce 80,000 to 90,000 service minutes to meet only basic dental needs; and many office areas are open carrels, making it difficult to keep patient information private. A new facility will cost many millions of dollars. Santa Clara does not believe that the Indian Health Service has the funding to pay the cost for constructing a new facility and so it plans to finance its own facility if necessary. However, Santa Clara needs development funding for planning and design. Congress should support funding for more hospital construction and also continue to support and provide favorable grants and loan and loan guarantees for tribes that seek to construct their own facilities.

- **Investing in Irrigation Infrastructure - Rio Grande Pueblos Irrigation**

**Infrastructure Improvement Act Funding.** Congress enacted the Pueblo Irrigation Infrastructure Act as Section 9106 of the Omnibus Public Land Management Act of 2009, Pub. L. 111-11. That Act directs the Secretary of the Interior to conduct a study of the irrigation infrastructure of the Rio Grande Pueblos. It also authorized the funding of projects to correct deficiencies identified by that study. Notably, the Bureau of Reclamation and Bureau of Indian Affairs already compiled a Year 2000 Report entitled, "Pueblo Irrigation Facilities Rehabilitation Report" on the desperate deterioration of the ancient systems of the Rio Grande Pueblos. Santa Clara Pueblo's Irrigation System consists of 14 miles of earthen and concrete-lined canals that have continued to be in operation since the early 1300's. The implementation of this Act will favorably affect Pueblo traditional lifestyle and culture, which for hundreds of years has been based on agriculture and irrigated lands. Santa Clara is currently looking at the redesign of the first four (4) miles of our main canal that supplies irrigation water to the majority of our farm lands. The design is complete; however, we lack the resources to complete the project in its entirety until Congress funds this Act.

- **Investing in Elder Care - Completion of the Santa Clara Pueblo Adult Day Care Center.**

There is a rapidly growing elder Indian population. In late 2009, the Santa Clara Pueblo completed construction of a 10,800 sq. foot regional adult day care center that will be able to serve a growing population of tribal seniors from the Eight Northern Pueblos, as well as local residents who may be afflicted with anything from dementia, Alzheimer's, mental illnesses or other frailties. For Pueblo residents and local community members, the center holds out the promise that they will not have to leave the reservation (or local community) for treatment, experiencing separation from their families and friends and sometimes culturally inappropriate care. For the larger Pueblo community, it is the next step in assuring that Pueblo values regarding respect for elders are met in the context of modern health care and social services structures. The Santa Clara Adult Day Care program will provide a secure environment for elders, where they can engage in stimulating activities that promote optimal physical and mental health. Through this program, Santa Clara seeks to delay or prevent the need for nursing home placement and to assure culturally appropriate care, while also diminishing cases of elder abuse, neglect and exploitation. A typical day at the Center would include providing program participants with a healthy snack in the morning and afternoon, as



well as a noon-time meal that would provide at least 1/3 of an adult's daily nutritional requirement. There would be a wide-range of activities within the center, but also elders would have the opportunity to participate in carefully supervised outside activities, such as field trips, visits to museums, visits to other Adult Day Care Centers, movies, restaurants, etc. Although the Center has been completed, the Adult Day Care Program has not yet been implemented due to severe funding restraints. To get the program operational, the Santa Clara Pueblo would need the following multi-year funding (all inclusive of salaries, utilities, furnishings, supplies, training, travel, etc.): Year One: \$305,033; Year Two: \$331,158; Year Three: \$360,750.

- **Investing in Wastewater and Water Infrastructure Improvements - The Pueblo of Santa Clara Wastewater Systems are in an Advanced State of Decay and threaten community health and the water quality of the Rio Grande.** The majority of the Santa Clara Pueblo is served by a wastewater collection system comprised of old 4" terra-cotta sewer pipes, which convey wastewater to a series of lagoons located south of the Main and South Villages, north of the Rio Grande. This system was largely constructed in the 1960s and 1970s. Additionally, some residents are only served by aging septic systems. Notably, the lagoon "treatment system" has been a long-time source of problems. Liners are frequently damaged and are costly to replace. Sampling and analysis of ground water from monitoring wells has revealed contamination due to leaching of wastewater through the lagoons. Groundwater impacts in this area will likely also impact the surface water quality of the Rio Grande. Secondary and advanced treatment of wastewater via a modern wastewater treatment facility is needed for the health of both the Pueblo and the surrounding environment. The Pueblo has completed a preliminary engineering report. This report confirmed the continued deterioration of the community wastewater collection system and indications that the major cause of the problem was root intrusion from Chinese elms, which require our Public Works Department to frequently remove roots sometimes resulting in damage to the brittle clay sewer pipes. This is a major contributor to leaks in the collection system. The Pueblo is seeking resources for the design and subsequent construction of the Wastewater Collection System and Treatment Facility Improvements. These improvements would incorporate removal and replacement of existing vitrified clay sewer pipe with PVC pipe, removal and replacement of existing manholes, installation of new collection sewer lines, manholes, lift stations and force mains, and installation of a new state-of-the-art wastewater treatment facility. The collection system improvements can be divided into two phases: Phase I for the Main, East, West and Guachupangue Areas and Phase II for system extensions and interconnection of the South Areas. *With regard to water systems*, the Pueblo is in Phase II of a three-phase project to replace our antiquated water systems. The Pueblo has received over \$2.2 million from the State of New Mexico and has contributed tribal matching funds. The Pueblo is seeking Federal resources for this project, and is approaching the USDA Rural Development program.
- **Espanola Valley Watershed Feasibility Study Funding and WRDA Cost-Share Waiver.** The purpose of the Espanola Valley Feasibility Study is to address ecosystem restoration and critical health and human safety concerns specifically flood protection and flood reduction measures along all of Espanola River Valley from southern border of San Ildefonso Pueblo to



northern border of Ohkay Owingeh including Santa Cruz River up to Santa Clara Boundary and Santa Clara Creek up to irrigation inlet (7 miles Santa Clara Creek). The project includes Santa Clara, Ohkay Owingeh, & San Ildefonso Pueblo. The partnership for this study is unique as it is the first time in the history of the United States that three Tribal Governments have joined together. The sponsors are not only working to accomplish their own shared health and human safety concerns (flood protection/flood reduction) and environmental restoration goals, but are addressing the health and safety and environmental restoration for all communities in the project area. The project was started in 2005 and is scheduled to be completed in 2013 or 2014 depending on funding and US Congress Construction Authorization. This date can be significantly changed if US Congress allows for Preauthorization of Espanola Valley Feasibility, which is a possibility due to importance of the project. To date the Pueblo sponsors and US Army Corps of Engineers have completed work on an existing conditions report that includes: Comprehensive hydrologic, hydraulic, and geomorphic modeling, detailed mapping of the project area, analysis existing conditions for: flood hazards, soils, geology, channel stability/instability, sediment generation/deposition, infrastructure/property, habitat, wetlands, land use, and environmental studies to characterize the project area and develop the baseline data for any potential ecosystem restoration. The estimate project cost of the Espanola Valley GI Feasibility Study is approximately \$4.3 million with 50 percent federal and 50 percent non-federal. To date the Pueblos have met their cost share obligations with in-kind and cash contributions. The Project has been well received by the US Army Corps of Engineers and US Congressional Delegation and has been identified as a priority project for funding. In a related matter, the three Tribal Sponsors are requesting amending the Water Resources Development Act to waive or reduce cost share to 25% for all watershed study projects on Tribal lands.

**Conclusion.** Thank you for this opportunity to present the Budget perspective of the Santa Clara Pueblo. Please do not hesitate to contact me if the Committee should require any further information.